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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No. 1381/2019

MADHU ASNANI

..... Petitioner

Through: Mr. Harsh, Adv.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS.

..... Respondents

Through: Ms. Namrata Mukim, Adv. for North
MCD with Ms. Unnati Anand, Adv.
for R-2

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **11.02.2019**

CM APPL. No. 6296/2019 (for exemption)

Allowed, subject to just exceptions.

Application stands disposed of.

W.P.(C) No. 1381/2019

At the outset, learned counsel for the petitioner states that relief in the matter is sought against respondent No. 2/North DMC, respondents Nos. 3 and 4 being the errant private parties; and that no relief has been sought against respondent No. 1/Delhi Development Authority.

Accordingly, this petition can be entertained in this roster.

The petitioner is aggrieved by alleged unauthorised construction and modifications made in the corridor between Shop No. 4 & 5 and Shop No. 5 & 5A in the commercial complex situate at plot No. 10A Rajindra Place,

New Delhi. The petitioner also seeks removal of encroachments, clearing of common passage and restoration of the common corridor in the subject premises.

Counsel for the petitioner points-out that a letter dated 30.12.1994 was issued, at the relevant time by the concerned department i.e. respondent No. 1/DDA, cancelling the allotment of the subject premises on the grounds *inter-alia* of unauthorised construction, misuse and encroachment therein.

The petitioner further points-out that a civil suit for injunction was thereafter filed by the predecessor-in-interest of respondents Nos. 3 and 4 challenging the action taken by the authorities, which suit was dismissed; and subsequently an appeal taken-up against such dismissal was also rejected by order dated 10.03.2017.

The petitioner also contends that existence of unauthorised construction in the subject premises is also borne-out from reply dated 25.01.2019 received by him from respondent No. 1/North DMC, whereby it is confirmed that no permission has been given by respondent No. 1/North DMC for any division of the property by putting-up partitions; and that the subject premises has also been booked for unauthorised construction/installation of shutters; and demolition order has also been passed thereafter.

Learned Panel Lawyer appears for respondent No. 1/North DMC on advance copy, and confirms what is stated by counsel for the petitioner.

In the context of the grievance made in the petition, it transpires that in compliance of orders of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors***, the Ministry of Housing & Urban Affairs (“MHUA”) of the Government of India has *vide*

Office Memorandum dated 25.04.2018 constituted a Special Task Force to comprehensively address violations of the provisions of the Unified Building Bye Laws and Master Plan for Delhi-2021 relating *inter alia* to construction activity and land-use in Delhi. *Vide* another Office Memorandum dated 23.05.2018 the MHUA has also formulated an action plan for monitoring construction activities in Delhi and for fixing responsibility in case of violations of the Unified Building Bye Laws and the Master Plan.

Vide order dated 20.09.2018 made in Writ Petition (Civil) No. 1807/2018 titled ***Devender vs. Government of NCT of Delhi & Ors.*** (and connected matters) by the Division Bench of this Court headed by Hon'ble the Chief Justice, the Court has held that in view of the setting-up of the Special Task Force under directions of the Supreme Court it is not appropriate for our court to exercise jurisdiction in matters relating to unauthorised construction; and has disposed of such matters granting liberty to the petitioners to raise their grievances before the Special Task Force so constituted, in accordance with the scheme and procedure formulated under the aforesaid two Office Memorandums.

By order dated 24.09.2018 made in a subsequent matter, being Writ Petition (Civil) No. 9938/2018 titled ***Suresh Chand Goel vs. East Delhi Municipal Corporation***, the Division Bench has followed its earlier order dated 20.09.2018 in Writ Petition (Civil) No. 1807/2018, similarly disposing of the writ petition, granting liberty to the petitioner to file a complaint before the Special Task Force. I am informed that the Division Bench has subsequently also made similar orders in other matters.

To be sure, the petitions that were subject matter of the aforesaid proceedings before the Division Bench were petitions filed *in public interest and otherwise*; and related to contravention *not only of sanctioned building plans but also of various laws*, including the Delhi Municipal Corporation Act, 1957, the Delhi Development Authority Act, 1957, the New Delhi Municipal Council Act, 1994, the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the Ancient Monuments Preservation Act, 1904 as also encroachment on public land etc.

Ergo, the binding observation of the Division Bench that in view of the setting-up of the Special Task Force under directions of the Supreme Court it is *not* appropriate for our court to exercise jurisdiction in such matters, *must not* in my view, be restricted *only* to matters relating to unauthorised construction but *must also apply to all other matters* which the Special Task Force is mandated to deal with, including misuse and encroachment. In many instances, it may well be that there are multiple violations of Building Bye Laws and Master Plan in the same property, say unauthorised construction, encroachment as well as misuser of premises; in which case the same agency must be left to deal with such connected issues. I should think it is for this reason that the objectives of the Special Task Force as enunciated in Office Memorandum dated 25th April 2018 include *inter-alia* matters relating to encroachment, unauthorised construction and use violations.

The aforesaid Special Task Force is a 15-member body with representation of the highest level from all concerned municipal, civic, revenue and law enforcement agencies of Delhi; and is therefore ideally suited for multi-agency, coordinated action against the rampant malaise of

breach of various laws, rules and regulations governing building construction and land-use in Delhi.

I am informed that as of date the Special Task Force even has its own dedicated website and mobile application to facilitate making of complaints, thereby making it even easier for parties to take their grievances before the said agency.

Accordingly, I am of the view that the correct course of action in this matter also would be to dispose of the present writ petition, giving liberty to the petitioner to approach the Special Task Force in accordance with the policy and procedure laid down for the purpose in MHUA's Office Memorandums dated 25.04.2018 and 23.05.2018 and avail the said alternate, efficacious remedy.

This writ petition is disposed of in the above terms.

Pending applications, if any, are also disposed of.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 11, 2019/uj